

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

MARK R. RUSSELL,

Plaintiff,

vs.

Civil Action 2:05-CV-432

Judge Smith

Magistrate Judge King

JOHN DOE, *et al.*,

Defendants.

OPINION AND ORDER

Plaintiff, a state inmate, brings this action under 42 U.S.C. §1983, alleging that defendants, two assistant county prosecutors, and an investigating agent, deprived him of his constitutional rights in connection with bail determinations made in October and November 2001 in his state court criminal proceedings, which had the effect of depriving plaintiff of his liberty. This matter is now before the Court for the initial screen required by 28 U.S.C. §§1915(e), 1915A.

The complaint was submitted for filing in this Court on May 3, 2005.

In Ohio, claims under 42 U.S.C. §1983 must be brought within two years of the time the cause of action arose. *Browning v. Pendleton*, 869 F.2d 989 (6th Cir. 1989) (*en banc*). It appears that this action, filed 3½ years after the events giving rise to plaintiff's claims are alleged to have occurred, is untimely.

Moreover, prosecuting authorities are immune from liability for monetary damages (which is the only form of relief sought by plaintiff) for actions alleged to have been taken by them as prosecutors. *Imbler v. Pachtman*, 424 U.S. 409 (1976). Finally, plaintiff does not allege that the defendant investigator provided false testimony to either

judicial officer; it therefore does not appear that this defendant caused or participated in the alleged deprivation of plaintiff's constitutional rights.

Accordingly, the Court concludes that the complaint fails to state a claim upon which relief can be granted. The complaint therefore is **DISMISSED** pursuant to 28 U.S.C. §§1915(e), 1915A.

The Clerk shall enter **FINAL JUDGMENT** in this case.

Moreover, the Court concludes that an appeal from the judgment entered in this case would not be taken in good faith.

s/George C. Smith
George C. Smith, Judge
United States District Court